directly related to a Section 272 audits.

How is the auditor to assure compliance with the other requirements of Section 272?

The auditor should:

· determine that all services, as required under this Section, are being provided by a separate affiliate, as required by Section 272(a)(2);

· establish procedures to assure that discrimination with affiliates and nonaffiliates is not occurring, as required by Section 272(c)(1);

· determine whether all transactions with an affiliate are accounted for in accordance with accounting principles designated or approved by the FCC, as required by Section 272(c)(2). The principles are those prescribed in the specific company's Cost Allocation Manual and in 47 CFR §32.27-Transactions With Affiliates; and

· determine that the company and its affiliate are in compliance with Section 272,(e)(1),(2)&(3) and Section 272(g).

What working papers will the Team have access to? Should it only have access to the current audit working papers or any previous audit working papers?

Section 272(d)(3)(B) gives the FCC and the State commissions "access to the working papers and supporting materials of any auditor who performs an audit under this section." Access should be given to all years working papers with no restriction or time limit placed upon access to prior years papers. The Team may need access to prior workpapers to review previous findings and areas of concern already addressed by the auditor, etc.

State and Federal access to the workpapers should not be limited either. If a regulatory body determines that inspection of the documents is necessary, they should have full access to the workpapers. Even the workpapers of companies regulated under the price cap methodology should be accessible, as it is these jurisdictions that must continue to safeguard that non-competitive services are not subsidizing their competitive services.

How should the interested parties gain access to the auditor's workpapers?

Workpapers should remain in the custody of the company or its auditor with full access guaranteed and granted only to the State commissions, the FCC and the Team. If review of the workpapers is determined to be necessary, the interested body should send a representative to review the documents at the company's offices.

When a need to review the papers has been identified, the lead auditor should send a request to the custodian of the papers requesting an on site visit. The auditor or company should have 7 days to respond to the request by either setting up a date for a visit to be held within 14 days from that point or by stating why a visit cannot begin in that time frame.

Parties with access to the workpapers should be allowed to make necessary copies or notes of all non-proprietary information. All proprietary information should be held subject to review only; however, if a copy is requested, the copy should be placed in the custody of the requesting body, either a State commission, the FCC or the Team, and should be maintained under their guidelines for handling of proprietary information. Team auditors should abide by the rules set out by their Commission.

When should the "every two years" clock begin?

An audit should be performed and submitted for the first full fiscal year of operations afterthe new subsidiary begins provision of services (is incorporated or some other threshold) and every second year thereafter.

How many audits are due every two years? One per subsidiary, one for all subsidiaries providing a particular type of service, or one for all subsidiaries for all types of services?

One audit should be performed and results submitted for each type of service. It is possible that not all audits for a particular company would be submitted in the same year. As discussed earlier, we believe that the clock begins when the first affiliate begins provision of a service listed in Section 272. Therefore, at maximum, there should be three audit reports submitted per company in a given year. One RFP may be used to solicit bids for all three audits.

Should the companies be segmented by regions, States or not at all for the purpose of completing an audit?

The companies should not be segmented. The audit requirement should be imposed at the parent company level, taking a top-down, comprehensive approach.

How far down the company organization chart should the scope of audits extend? Should audits be required of only direct subsidiaries or of any affiliate of the company or its subsidiaries?

The audit should encompass all affiliates, of the company or its subsidiary, that provide any of the three types of services.

Should audits be required of affiliates that resell the specified services?

Audits should be required of all affiliates whose activities, in any way, involve or whose revenues are derived from the services specified in Section 272.

To whom should the completed audits be submitted?

Section 272(d)(2) states that the auditor "shall submit the results of the audit to the Commission (FCC) and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection." We believe that all audit reports should be submitted to the Team directly for dissemination to the appropriate State commissions, the FCC or interested parties.

What should be the due date of the completed audits? How should requests for extensions be handled?

The FCC should prescribe that the audit reports should be due, no later than 90 days following the close of the fiscal year for each company. Such a due date is reasonable if a significant portion of the audit field work is performed during the period being audited.

The FCC should also prescribe that requests for extensions be directed to the Commission, and should be received no later than 14 days prior to the due date of the audit. The FCC should forward courtesy copies of the request to the appropriate State commissions. FCC approval or denial of a company's request should be given within 14 days.

Absent FCC interpretation, these provisions should be included in each RFP.

How should comments to the final audit report be handled? Should a comment period be established for the report? Who should receive copies of the comments?

All comments should be submitted to the Team for review and dissemination to the appropriate State commission and the FCC. A 30 day comment filing period is appropriate for the commissions and other parties.

How should issues of non-compliance identified during the audit or by a commentor be handled? Should the Team have authority or responsibility to initiate activity or to coordinateaction?

The Team should have the responsibility of notifying the FCC or appropriate State commission of any findings. This can be accomplished through simply providing a copy of the report to the appropriate commission. Any action that may be necessary should be taken by the FCC or a State commission.

Should companies have an opportunity to respond to comments by parties to the audit findings? If so, how long?

Yes. Companies should have an opportunity to make reply comments. Company comments should be due 30 days after the due date of the parties' comments.

How should proprietary information be handled?

Each State commission and the FCC should be required to comply with its own rules regarding the handling of proprietary information if it wishes to review such data. In addition, each Team and Team audit staff member should be required to comply with the rules of their State commission when reviewing proprietary data. Therefore, each State commission who wishes to have representation on the Team or the Team audit staff should be in compliance with the statutory requirements shown in Section 272(d)(3)(C) that says "the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted under this section."

Such a requirement of Team or Team audit staff membership should be in place so as to increase the effectiveness of the Team's oversight. If there were certain Team or audit staff members who's State did not have adequate safeguards in place to ensure the protection of proprietary information, that member would not have access to any proprietary information provided during the audit. Therefore, that member could not contribute to the complete performance of the Team's duties.

What time frame should an audit cover? Should it cover the two years of operations since the last audit or just one fiscal year? Section 272(d)(1), states that a company shall obtain an audit "every 2 years." We believe that each audit should be comprehensive and that the opinion issued should include assessment of activities occurring since the last audit.

IV. AREAS REQUIRING FCC ACTION

Concern and Recommendation

Will the FCC seek to extend the sunset period beyond the 3- and 4-years specified in Section 272(f)(1)&(2)?

The FCC should seek to extend the period for a particular service if:

- the 3- or 4-year period has passed and no audit has been completed for that particular type of service; or
- an audit has been completed, for that service, within the last 2 years and there were issues of non-compliance that were identified as a result of the audit; or
- there has not been an audit completed, for that type of service, within the last 2 years; or
- there does not appear to be effective competition for the specific service in the affiliates territory.

What will the procedure be on the Federal level, if areas of non-compliance are identified as a result of the audit?

Companies should submit a copy of any plans they have to implement any auditor recommendations or to correct any items the auditor may find.